



**Joint Report of the
House of Representatives
Bipartisan Investigative Committee on
Privacy Protection and the House of
Representatives
Special Interim committee on
Privacy Protection**

September 2013

September 10, 2013

Tim Jones, Speaker
House of Representatives
State Capitol Building
Jefferson City, MO 65101

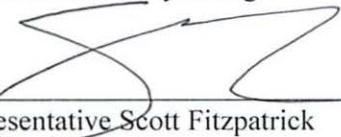
Dear Mister Speaker:

The House of Representatives Bipartisan Investigative Committee on Privacy Protection and the Special Interim Committee on Privacy Protection have met, taken testimony, deliberated and concluded their investigation on the circumstances surrounding the preparation, compilation, storage, sharing, and dissemination of over 163,000 concealed carry records by the Department of Revenue. The below listed committee members are pleased to submit the attached report:


Chairman Stanley Cox


Representative Wanda Brown

Representative Rory Ellinger

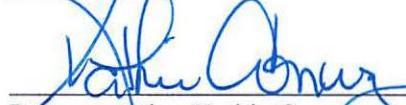

Representative Scott Fitzpatrick

Representative Nick Marshall

Representative Gina Mitten

Representative John Rizzo


Vice Chairman Ken Wilson


Representative Kathie Conway


Representative Keith English


Representative Caleb Jones

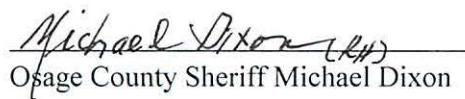
Representative Gail McCann-Beatty


Representative Don Phillips


Representative Shawn Rhoads



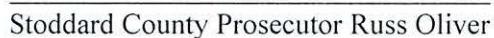
Representative Robert Ross



Osage County Sheriff Michael Dixon



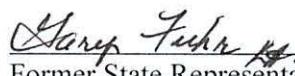
Randolph County Prosecutor Mike Fusselman



Stoddard County Prosecutor Russ Oliver



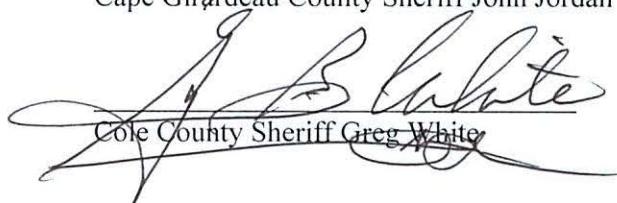
Mr. Omar Davis



Former State Representative Gary Fuhr

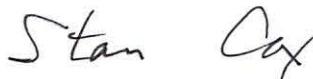


Cape Girardeau County Sheriff John Jordan



Cole County Sheriff Greg White

Sincerely,



Representative Stanley Cox
Committee Chair

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INTRODUCTION

The Bipartisan Investigative Committee on Privacy Protection was created in May, 2013 at the authorization of House Speaker Timothy Jones. Recognizing that the protection of private information of Missouri citizens is of the utmost importance, the Committee was charged with investigating the circumstances surrounding the preparation, compilation, storage, sharing, and dissemination of over 163,000 concealed carry records by the Department of Revenue (“DOR”). The Committee’s investigation was designed to aid the legislature in determining what motivated state officials to act as they did, whether state laws were broken in the process, and whether new or revised laws are needed to ensure that the private information of Missouri citizens is secure. The Committee held hearings on the release of the concealed carry permit holders and more generally, on all topics pertaining to dysfunction within the Department of Revenue.

The members of the Committee included Representatives Stanley Cox (Chair); Ken Wilson (Vice-Chair); Nick Marshall; Robert Ross; Caleb Jones; Shawn Rhoads; Wanda Brown; Kathie Conway; Keith English; Gina Mitten; Don Phillips; Scott Fitzpatrick; Sheriff Greg White; Sheriff Michael Dixon; Sheriff John Jordan; Sheriff Stuart Miller; Omar Davis; Gary Fuhr; Randolph County Prosecutor Mike Fusselman; and Stoddard County Prosecutor Russ Oliver.

The Committee held public hearings in Jefferson City on June 18, June 26, June 27, July 23; July 24, August 19, and August 20, 2013.

The Special Interim Committee on Privacy Protection was formed by Speaker Timothy Jones in July, 2013 as a companion committee to the Bipartisan Investigative Committee on Privacy Protection. The members of the Special Interim Committee on Privacy Protection included Representatives Stanley Cox (Chair); Ken Wilson (Vice-Chair); Wanda Brown; Kathie Conway; Rory Ellinger; Keith English; Scott Fitzpatrick; Caleb Jones; Nick Marshall; Gail McCann Beatty; Gina Mitten; Don Phillips; John Rizzo; Shawn Rhoads; and Robert Ross. This Committee met jointly with the Bipartisan Investigative

Committee on Privacy Protection and held public hearings in Jefferson City on July 23; July 24; August 19; and August 20, 2013.

HEARINGS

- 1. First Public Hearing of the Missouri House of Representatives Bipartisan Investigative Committee on Privacy Protection, June 18, 2013.**

Witnesses:

Ruth Otto, Manager in the Motor Vehicle and Driver's License Division, DOR.
Norma Hensiek, Manager in the Driver's License Bureau, DOR.

- 2. Second Public Hearing of the Missouri House of Representatives Bipartisan Investigative Committee on Privacy Protection, June 26, 2013.**

Witnesses:

Jackie Bemboom, Director of the Division of Motor Vehicles and Licenses, DOR.
Nick Humphreys, Administrator of the Compliance and Investigation Bureau, DOR.

- 3. Third Public Hearing of the Missouri House of Representatives Bipartisan Investigative Committee on Privacy Protection, June 27, 2013.**

Witnesses:

David Wickerham, Special Agent in Charge of the Criminal Tax Investigation Bureau, DOR.
John Mollenkamp, Acting Director for DOR.

- 4. Fourth Public Hearing of the Missouri House of Representatives Bipartisan Investigative Committee on Privacy Protection, First Public Hearing of the Special Interim Committee on Privacy Protection, July 23, 2013.**

Witnesses:

Douglas E. Nelson, Commissioner of the Office of Administration.
Chris Pieper, Senior Legal and Policy Advisor for the Governor's Office.
Peter Lyskowski, Deputy Chief of Staff for the Governor.
Edward Ardini, Counsel to the Governor.

- 5. Fifth Public Hearing of the Missouri House of Representatives Bipartisan Investigative Committee on Privacy Protection, Second Public Hearing of the Special Interim Committee on Privacy Protection, July 24, 2013.**

Witnesses:

Alana Barragan-Scott, Presiding Commissioner for Administrative Hearings Commission.
Kristy Manning, Deputy Legislative Director for the Governor.
Jeff Harris, Policy Director for the Governor.

- 6. Sixth Public Hearing of the Missouri House of Representatives Bipartisan Investigative Committee on Privacy Protection, Third Public Hearing of the Special Interim Committee on Privacy Protection, August 19, 2013.**

Witnesses:

Major J. Bret Johnson, Missouri State Highway Patrol.
Major Luke Vislay, Missouri State Highway Patrol.
Sergeant Scott Nace, Missouri State Highway Patrol.

**7. Seventh Public Hearing of the Missouri House of Representatives Bipartisan
Investigative Committee on Privacy Protection, Fourth Public Hearing of the Special
Interim Committee on Privacy Protection, August 20, 2013.**

Witnesses:

Daniel Hall, Legislative Director for the Governor.

TESTIMONY

Ruth Otto (“Otto”) testified under oath that she was not involved in the decision making process regarding biometrics, scanning source documents, or retaining source documents, and she could not recall if she was privy to any of the decisions related to those issues. Otto testified that she knew Missouri law states that DOR cannot comply with the REAL ID law. Otto, a Manager in the Motor Vehicle and Driver’s License Division, testified she is not educated, trained, or up to date on the details of the federal REAL ID law. She stated that it was her understanding that the inability to comply with REAL ID pursuant to Missouri law meant DOR could not change any current procedures in order to comply with REAL ID. Otto testified that every source document that was scanned was placed in the Oracle database, and at one point in time every employee in each of the 184 fee offices had access to all of the scanned documents.¹ Otto testified that she did not know whether the scanned source documents were considered part of the driver’s record.

Hensiek testified that DOR was scanning and collecting source documents for immigration, test papers, documentation for a medical impairment, etc., and that DOR has been collecting this information for a number of years. Hensiek testified that she was not sure if fee office employees had access to the source documents once they were scanned. Hensiek testified that DOR’s database is maintained by the Office of Administration (“OA”), and OA is allowed to maintain and access their database. There is a memorandum of understanding (“MOU”) between DOR and OA regarding OA’s ability to maintain and access DOR’s database. Hensiek said her position is that any law enforcement officer, state or federal, can obtain the list of Missouri concealed carry permit holders, although she went on to clarify that someone would probably review the request for such information.

The Committee heard sworn testimony from Jackie Bemboom (“Bemboom”). Bemboom testified that she has been an employee of the DOR for over twenty-seven years. In 2005, Bemboom went to the division of motor vehicle and driver’s licensing as a project manager and in 2009 she became the director

¹ Otto testified that presently, only those with a need for access for a limited purpose can access these scanned documents.

of the division of motor vehicle and driver's licensing. Bemboom testified that moving away from over the counter issuance to central issuance of driver's licenses allowed the department to take a look and review the source documents prior to handing the identification over the individual.

Bemboom also testified that her predecessor as Director, Julie Allen, gave OA blanket authority to distribute information from DOR's database to any law enforcement agency that requested it.

Bemboom testified that she changed this policy in either March or April of this year. Bemboom testified that currently, only DOR and OA information technology personnel can access the carry concealed permit information, requests to obtain this information must be made to the records center and any such request from law enforcement must be approved by her.

Humphreys testified that fraudulent identification cards were being issued by the fee office in St. Joseph.² Humphreys could not recall any state charges being filed against any of the individuals. Only one fee office employee was federally indicted³; several other employees were terminated, but Humphreys stated he did not know that they had enough information to charge these individuals with state or federal crimes.⁴ Humphreys testified he never discussed charges for these individuals with the prosecuting attorney in Buchanan County.⁵ Humphreys was aware of a meeting with the Buchanan County prosecutor and that ultimately he was not interested in prosecuting those individuals that were obtaining the identification there illegally because the prosecutor felt it was more of a federal issue than it was a state issue. Humphreys testified that DOR started the investigation into St. Joseph, and that the Department of Homeland Security ("DHS"), St. Joseph Police Department and the Missouri State Highway Patrol

² Several individuals were arrested and indicted by federal law enforcement agents as part of a larger criminal conspiracy.

³ Humphreys testified that he did not know what this individual was charged with, and that this individual was fired for issues unrelated to the fraud.

⁴ Humphreys testified that two or three individuals were terminated due to their contact with some of the suspects, as DOR had knowledge that some of the fee office employees had some direct contact with some of the interpreters and suspects involved in the St. Joseph conspiracy. Humphreys further explained that while DOR can deny a fee office employee access to their database, the ability to terminate a fee office employee rests solely with the contract holder for that fee office.

⁵ St. Joseph is located in Buchanan County.

(“MSHP”) were also involved. Humphreys testified that the investigation into the St. Joseph fee office, which was initiated in 2008, is presently an ongoing investigation.

Humphreys testified that at some point in the investigation he was told by the DOR director⁶ that MSHP was officially deemed as being in charge of the investigation, although he had no idea who ultimately made that decision. Humphreys testified that was the first time in his experience that DOR had turned over a fraud case to an outside agency for investigation. Humphreys testified that he never interviewed or investigated the contract holder for the St. Joseph fee office, James Montee. Humphreys testified that in his opinion, the scanning of source documents would not have prevented the type of fraud that was occurring in St. Joseph.

David Wickerham (“Wickerham”) testified that MSHP took over the day after the search warrants were issued and that he was not involved in the investigation after that point. Wickerham testified that they met with the Buchanan County prosecutor to discuss criminal charges coming out of the St. Joseph fraud investigation, and the Buchanan County prosecutor was not interested in pursuing state charges, with one of the reasons being that undocumented individuals are not allowed to bond or bail out of jail; not pursuing charges would save the county incarceration costs for these individuals as they awaited trial. Wickerham testified that they could never determine why the criminal suspects choose the St. Joseph fee office. Wickerham testified that the scanning of source documents would not have prevented the fraud that occurred in the St. Joseph fee office, and that the review of the documents themselves would not have indicated any fraud.⁷

Douglas Nelson (“Nelson”) testified that as the Commissioner of the Office of Administration, he communicates with the Governor a few times each week. Nelson testified that since January of this year, he has had no conversation with the Governor regarding the request by the Department of Social Security for the release of concealed carry weapon endorsement information, but that he would have

⁶ Humphreys testified that at that point in time, Alana Barragan-Scott was the Director of DOR.

⁷ Wickerham testified that the source documents involved in the St. Joseph fraud cases were themselves fraudulent source document that were so authentic, even an individual trained in fraud detection would not have been able to identify the documents as fraudulent.

communicated with members of the governor's staff on the issue in response to Senate and House committee meetings related to the issue. Nelson testified that the Office of Administration received no direction from the governor, the governor's staff, or the governor's office regarding the dissemination of concealed carry weapons information.

Chris Pieper ("Pieper") testified that he could not recall receiving any direction from the Governor's office regarding the protection of concealed carry weapons information while he was the legislative liaison for the Department of Revenue. Pieper testified that during his time at the DOR, the governor signed legislation that prohibited Missouri from complying with REAL ID, but that he could not recall any communication from the governor's office regarding REAL ID. Pieper testified that although he was given supervisory authority within the governor's office over DOR on January 23, 2012 via Executive Order 12-01, he only served in that capacity for two weeks before leaving the governor's office for a new position as the acting director of the Missouri Department of Economic Development.⁸

Edward Ardini ("Ardini") testified that after H.B. 361 passed in 2009, there were discussions with the governor's staff regarding the fact that once the bill became law Missouri would not be compliant with REAL ID, and how to communicate the impact of that to the public. Since that point in time, Ardini could not recall anything specific being discussed with the governor's staff pertaining to REAL ID.

Ardini testified that the governor's office has weekly staff meetings that are attended by the chief of staff, the policy director, the legislative director, the communications director, and the deputy chief of staff. The Governor never attends these meetings. Ardini testified that in his legal opinion, so long as procedures were not implemented for the purpose of complying with REAL ID, but instead were implemented for another purpose independent of the requirements of REAL ID, those changes in

⁸ Mo. Rev. Stat. § 105.454 requires the Governor to designate someone with supervisory authority over each department, division or agency of the state and requires the executive order naming that individual to be amended within 90 days of any change in the supervisory assignments. No executive order replacing Pieper as the liaison for the DOR was issued, and no witness was able to name any member of the Governor's staff who assumed supervisory authority over DOR after Pieper left the Governor's staff. Peter Lyskowski testified that he was named as the governor's liaison for DOR in May of 2013.

procedures would not run afoul of the mandates of MO. Rev. Stat. § 302.183. Ardini testified that he was made aware of the St. Joseph investigation later in the investigation and as the liaison for the Department of Public Safety, he felt augmenting the investigative resources by a law enforcement agency was appropriate and asked the MSHP to communicate with DOR and with the federal authorities that were involved in the investigation. Ardini specifically testified that he did not direct that DOR be removed from the investigation, but that the MSHP offer its resources to augment the investigation. Ardini further stated that he never discussed the St. Joseph investigation with the Governor.

The Committee heard sworn testimony from Alana Barragan-Scott (Barragan-Scott) who served as the Director of DOR from July 2009 through December, 2012.⁹ Prior to serving as the acting director, Barragan-Scott testified she was the deputy director for DOR. Barragan-Scott testified that after H.B. 361 was signed by the governor in 2009, the department staff continued to discuss REAL ID, with their immediate concern being how to communicate to Missouri citizens how they were supposed to prepare for REAL ID going into effect. She testified that neither she nor any member of her staff took steps for purposes of complying with Real ID. She also testified that she could not recall whether she had any discussions or communications with the governor regarding HB 361 and what the consequences would be to Missourians if it was signed by the governor. She testified that they had meetings within the department regarding how to communicate out to the citizens how to prepare; but she could not recall having any discussion regarding anyone telling the governor not to sign HB 361 due to the problems it could cause; she testified that she did not know if such conversations went through her legislative liaison, Chris Pieper.

Barragan-Scott testified that whether Chris Pieper took a position in support or in opposition to HB 361, he would have either been granted or denied permission to do so by the person in charge of legislative affairs for the governor's office, Daniel Hall. Barragan-Scott testified that under Chapter 536 the definition of a rule does not require the department or any department to promulgate rules relating to

⁹ Barragan-Scott testified that she served as acting Director beginning in July of 2009, was officially sworn in as the Director in October of 2009, and was confirmed in January of 2010.

the internal processes of an agency; she maintained that in her opinion, existing state law already required copies of source documents to be retained, and that she could not recall ever having discussions about whether the procedures pertaining to the scanning of documents should be submitted to Joint Committee on Administrative Rules (“JCAR”). Jeff Harris (“Harris”) testified that in his opinion, DOR has not complied with the REAL ID Act.

Major Johnson testified that he is the commander of the field operations for the Missouri State Highway patrol and has been in that position since June of 2010. He is the commander over the nine geographic troops around the state, including Troop H in St. Joseph. The first knowledge he had about the issues occurring in the St. Joseph fee office was in the early part of January 2012. He received a phone call from the captain of Troop H, who shared that a Buchanan County sheriff’s investigator went to the Captain’s office and briefed him on an ongoing investigation in St. Joseph with document fraud and was requesting the highway patrol for personnel for some upcoming search warrants that were going to be served the following week. He testified that the DOR investigator stayed involved in the investigation. He had no firsthand information regarding whether the Missouri Highway Patrol interviewed any employees of the fee office in St. Joseph. Sergeant Scott Nace (“Nace”) testified that the local prosecutor involved in the St. Joseph fraud case declined to prosecute the suspects on any state charges because he did not want to utilize state resources to prosecute or house any of these individuals. It was Nace’s understanding that there is a “shall issue” policy in DOR, i.e., if everything on the source documents appears legitimate, even if there is a gut feeling that there is a fraud taking place, DOR must issue the identification card.

FINDINGS

The DOR continued to implement the components of the federal REAL ID Act of 2005, despite the 2009 passage of H.B. 361, sponsored by Representative Jim Guest, which explicitly prohibits DOR from:

amending procedures for applying for a driver's license or identification card in order to comply with the goals or standards of the federal REAL ID Act of 2005, any rules or regulations promulgated under the authority granted in such act, or any requirements adopted by the American Association of Motor Vehicle Administrators for furtherance of the act.

Several witness from the DOR and the Governor's Office indicated the reason for their actions was not to actually comply with the REAL ID Act, but to ensure that Missouri citizens had a secure identification card. Some witnesses from the DOR and the Governor's Office claimed that this legislation, specifically Section 302.183 RSMo, allows changes in procedures which implement the REAL ID Act as long as those changes in procedure were made for some reason other than the implementation of that federal act. This is clearly inaccurate in light of the specific language cited above from Section 302.183.

The specific actions by DOR which have been implemented since 2009, contrary to the prohibition found in Section 302.183, include the scanning and retention of "source documents" such as birth certificates and social security cards, and the acquisition of equipment to facilitate the scanning and retention. Additionally, the acquisition of equipment and software to gather biometric information on citizens is clearly in contravention of this legislation. Based upon a report made by DOR to Homeland Security Secretary Janet Napolitano, central issuance and adopting level three security features are also measures required to comply with REAL ID. By taking these actions, the executive branch has shown indifference to the privacy rights of all Missourians and the mandates found in section 302.183.

One of the questions that the Committees tried to answer was "who was responsible for the release of 163,000 private concealed carry records to the federal government?" Despite earlier denials, the DOR and the Governor admitted that these records were released to investigators with the Social

Security Administration (“SSA”). It has also been established that an information technology employee with the Office of administration is the individual that actually compiled the information and released it to the SSA. Due to the evasive testimony of numerous witnesses, the determination of the identity of the employees involved in establishing policies that resulted in the collection, storage, and dissemination of these private records, which were subsequently released to federal authorities, has been difficult. In fact, no employee could identify who was even responsible for creating or disseminating such a policy. DOR employees could not identify any rule adopted by that agency or any specific directives from the Governor’s Office governing the release of private concealed carry records in a singular or batch form. Employees of the Governor’s Office claimed to have little or no recollection of having any discussions within that office and claimed to have never discussed this significant policy with Governor Nixon. These claims simply are not credible.

Another area of concern to the Committees is the justification that was provided for the DOR’s change in policy that resulted in the scanning and retention of source documents beginning in late 2012. Representatives of DOR testified that the retention of these documents begin in late 2012 in order to provide the department with the ability to later review the documents in an effort to detect and prove fraud. Despite this justification, DOR employees admitted that few of these records were ever examined by employees of that agency. DOR has gathered an incredible amount of private information through their policy of scanning source documents, but claim to have made little or no use of the information gathered and retained. It appears to the Committees that reviewing scanned source documents after a driver’s license or non-driver’s license is issued is not an effective way to detect or prove fraud. The best way to prevent fraudulent identification cards from being issued is to examine the original source documents when they are presented, and to eliminate the DOR’s policy of “shall issue”¹⁰. Our citizens have a reasonable expectation that their personal documents should be kept secure, and DOR has failed to

¹⁰ Missouri State Highway Patrol Sergeant Scott Nace testified that it was his understanding that if all source documents presented at a driver’s license fee office appeared facially valid, the requested identification card must be issued by the DOR employee, regardless of whether the DOR employee felt a fraud was taking place.

justify the scanning or retention of these sensitive documents. The release of these confidential documents to the federal government by a low level employee of the Office of Administration, and the lack of a written policy governing the release of these documents demonstrates the executive branch cannot be trusted with this information if the documents are retained.

The citizens of our state were promised in 2006 that they would only have to produce source documents one time and not upon each subsequent license renewal. It is recommended that legislation be adopted to ensure that once a citizen has proved his or her lawful presence in our state with source documents (when they initially receive their license), that there is no requirement to prove this again by again providing these source documents.

DOR has instituted significant changes in procedure that the Committee concludes amount to rules that should have been put through the Joint Committee on Administrative Rules (“JCAR”) process. These procedures have had a major impact on Missouri citizens (e.g., central issuance of identification cards, scanning and retention of source documents, acquisition of equipment and software for gathering of biometric data on citizens). DOR’s approach, regarding to the adoption of these policies, are perceived by these Committees as a way to circumvent official rule promulgation that may have been done purposely to keep this information hidden from the General Assembly and our citizens.

The DOR has repeatedly retained outside vendors to compare all photographs in their driver’s license and non-driver’s database to identify duplications. The DOR has expended over \$600,000 in these efforts. Despite the considerable expenditures, these “scrubs” failed to identify the fee offices which were the source of any of the duplications. If these “scrubs” continue to be performed by DOR, the license fee office where the identification card was issued should be identified, as this information would be helpful in potentially identifying the source of any fraud.

DOR received a bid from a private contractor to institute the central issuance of identification cards. The Committees obtained information about the problems relating to loss of drivers licenses and non-driver's license in the mail and delays caused by using the U.S. Mail to deliver these important documents. Serious consideration should be given to abandoning the central issuance of licenses. It is more efficient, secure, and beneficial to the consumers of these services to return to the local, over the counter issuance of identification cards.

Witnesses from the Missouri Highway Patrol and others testified about the St. Joseph license office and its issuance of over 3,500 fraudulent identification cards. Many of these fraudulent documents were issued after the investigation into that office had begun. The likely harm of this failure by the DOR cannot be overemphasized.¹¹ There are over 3,500 illegal aliens who possess Missouri identification cards that were obtained fraudulently, and evidence shows that most of these fraudulent identification cards were issued to illegal immigrants who apparently came to St. Joseph from out of state for the sole purpose of obtaining an illegal identification card. All State agencies who conduct criminal investigations must adopt a policy to balance the needs of law enforcement to complete an investigation against the potential harm caused by the continued criminal activity.

There is no dispute that the same individual who operated the fee office during both of the criminal conspiracies that were occurring in the St. Joseph fee office continues to operate the St. Joseph fee office today. DOR needs to establish policies to prevent a fee office operator from retaining a contract or obtaining a future contract for a fee office after such a massive criminal enterprise has taken place under the operating authority of that individual. A careful review of the process of choosing operators of fee offices must be undertaken by the Governor.

¹¹ For reasons law enforcement could not explain, after discovering the criminal conspiracy, law enforcement investigators continued to allow massive amounts of illegal immigrants to obtain fraudulent licenses from the St. Joseph fee office prior to executing search warrants in January of 2012.

It is far too simple to obtain personal records from DOR. The General Assembly must seriously consider whether Missouri should continue to monetize the personal information of its citizens. If the General Assembly determines that the revenue stream created by selling this personal information is indispensable, then we must seriously consider charging higher fees for providing this information.

Finally, the Committee notes that many of the privacy concerns generated by the actions of DOR have been addressed with the passage of S.B. 252 (2013). S.B. 252 specified that DOR cannot retain copies, in any format, of source documents presented by individuals applying for or holding driver's licenses or non-driver's licenses. In addition, DOR was prohibited from using technology to capture digital images of source documents so that the images are capable of being retained in electronic storage in a transferable format. This bill further requires DOR, by December 31, 2013, to securely destroy any source documents that have been obtained from driver's license or non-driver's license applicants after September 1, 2012. Under the provisions of the bill, as long as DOR has the authority to issue a concealed carry endorsement, the department must not retain copies of any certificate of qualification for a concealed carry endorsement presented to the department for an endorsement on a driver's license or non-driver's license.¹² In addition, the bill further requires the department to purge any copies of certificates of qualification that have been obtained from driver's license and non-driver's license applicants. The bill further prohibits any state agency from disclosing to the federal government the statewide list of persons who have obtained a concealed carry endorsement or permit.

¹² DOR no longer has authority to issue a concealed carry endorsement. Pursuant to S.B. 75 (2013), the provisions requiring a person to present a certificate of qualification to DOR for a driver's license or non-driver's license with a concealed carry endorsement were repealed, and instead the permit issued by the sheriff authorizes the person to carry concealed firearms.

RECOMMENDATIONS

- 1. Review the budget appropriations made to DOR and adjust DOR's appropriations to reflect the agencies budgetary needs related solely to compliance with the laws the State of Missouri.**

Specifically, the Governor and DOR should commit to not amend procedures for applying for a driver's license or identification card in order to comply with the goals or standards of the federal REAL ID Act of 2005, any rules or regulations promulgated under the authority granted in such act, or any requirements adopted by the American Association of Motor Vehicle Administrators for furtherance of the act. DOR should report to the budget chairs of both the House and Senate on an annual basis by January 15th any changes of procedures relating to issuance of drivers licenses and non-drivers' licenses.

- 2. Eliminate all appropriations made to DOR for the gathering or retention of source documents, other than those source documents necessary for the purposes of verifying the lawful immigration status of noncitizens and temporary residents pursuant to Section 302.171.1, used to obtain drivers' and non-drivers' licenses.**

No compelling argument has been made by the DOR for the gathering, retention and use of source material for driver's licenses and non-drivers licenses, except those documents required to be gathered and retained by the federal law, such as Commercial Drivers Licenses. By eliminating the retention of these records, the continued expenditures for the scrubs of these records should also be eliminated as unnecessary. The Budget Committee should require the Department of Revenue to justify the continued expenditure of state funding for maintaining central issuance of these licenses and obtaining equipment and software used for biometric identification. Alternatively, the Budget Committee of the House of Representatives should require the DOR to justify any expenditure related to the gathering, retention and use of source material for drivers licenses and non-drivers licenses, except those documents required to be gathered, retained, and used by the federal government, such as Commercial Drivers Licenses.

- 3. Enact legislation that requires the executive branch to implement administrative rules through the process established by law, when appropriate, to ensure adequate penalties exist for non-compliance, and that requires an agency implementing internal policies or any procedures designed to implement a state law to submit those policies and procedures through the Joint Committee on Administrative Rules (JCAR) formal rule making process, or file the proposed policies with the General Assembly for review prior to implementation.**

The Committee heard testimony from numerous Department of Revenue employees that indicated the procedures regarding the issuance of the new driver's licenses were not submitted to JCAR, but instead were implemented as internal policies. JCAR Chairman, Senator Eric Schmitt, has stated that the number of rules promulgated by state departments has dropped significantly. In July of 2013, JCAR requested every state department to submit to JCAR a list of internal policies not involved in the formal JCAR rule making process.